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**Before the Federal Communications Commission
Washington, D.C.**

In the Matter of)
Implementation of Section 255 of the)
Telecommunications Act of 1996)
Access to Telecommunications Services,)
Telecommunications Equipment, and)
Customer Premises Equipment by)
Persons with Disabilities)
_____)

WT Docket 96-198

Federal Communications Commission
Office of the Secretary,

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1919 M Street, NW, Room 222
Washington, D.C. 20554.

As a person with a mobility and motion disability, I fortunate to be a successful consultant who works with a variety of cross-disability and non-disability organizations [<http://www.jik.com>]. I could not do this work without access to an array of telecommunication equipment and services. However, many of my peers with significant visual, hearing, cognitive and physical disabilities are not so fortunate. They are "locked-out" of growing elements of education, jobs and self-sufficiency, commerce, health care, culture and recreation in our society because of lack of access to telecommunication equipment and services. If telecommunications products and services are not universally designed, they will be even more isolated than they are today.

1. Access Board Guidelines

The Access Board's guidelines, which grew out a long broad based consensus process involving the Telecommunications Access Advisory Committee, are fair and go a long way toward achieving access to telecommunications products. The guidelines suggest ways for the manufacturers to achieve access in the design of their products and require product information and instructions to be accessible to people with disabilities. It is VERY IMPORTANT that the FCC adopt the Access Board Section 255 guidelines for both manufacturers and service providers. Having one set of guidelines, from a public policy perspective, will avoid confusion and provide clear guidance on the Section 255 obligations of companies to make their products and services accessible.

2. Readily Achievable

Readily achievable is already a low standard. The Access Board Guidelines interpretation of readily achievable is clear and should be used.

Congress's intent, like in the Americans Disability Act, was that some burden was intended, not an undue burden, but some burden was due for the general good!

The FCC's NPRM introduces unprecedented factors and filters into the readily achievable interpretation such as cost recovery, opportunity cost and market considerations. These factors and filters are: vague, subjective, and difficult, if not impossible to measure; they give providers and manufacturers an array of excuses not to build in access to telecommunication equipment; and they also set potentially dangerous precedent for other disability laws.

Take these historical examples of access: curb cuts for wheelchair users and volume amplification on telephones for people who are hard of hearing. Originally these features were conceived to meet the needs of what was then often referred to as "the unfortunate few." These features made things possible for people with disabilities and easier and more convenient for everyone else. As years passed these features became popular, expected and demanded by the general population. Would these historical examples of access have passed the readily achievable cost recovery and market consideration filters introduced by the FCC?

If buildings did not have to include access features unless they could anticipate cost recovery, that is the feature would pay for itself, within some arbitrary time frame, people with disabilities would continue to be relegated to greater unemployment or under-employment or to back closets, dark corners and costly and unnecessary institutions. The economic loss and tax burden to all would be astronomical!

The reason Congress enacted the ADA was that market incentives and cost recovery were not sufficient elements to cause private entities to make their facilities accessible even when such access was readily achievable. The same is true for Section 255 which is based on the ADA.

The FCC's readily achievable factors are not allowed in creating access to the built environment and nor should they be allowed in creating access to telecommunication equipment. If providers and industry understood the access issues, Section 255 would not be necessary. But they don't and thus we need the power assist of 255. Please do not weaken the intent or spirit of 255.

3. Enhanced Services

Congress did not intend to eliminate these very important and widely used services from the scope of Section 255. The whole purpose of Section 255 is to expand telecommunications access. If these services are excluded, then people with a variety of disabilities will remain second class citizens with respect to new telecommunications technological advances. They will be forced to use the equipment most people will only remember when they view it on exhibit at the Smithsonian. Maybe, people with disabilities will have access to "pots" - plain old telephone service, but they certainly won't have access to the "pans" - the pretty awesome new stuff - that everyone else will be using.

While it may be appropriate for the Commission to distinguish between basic telecommunications services and information services in some contexts, it is inappropriate to do so in implementing Section 255. The

Americans with Disabilities Act on which 255 is based, enacted to "assure equality of opportunity, full participation, independent living, and economic self-sufficiency" for individuals with disabilities. Like the ADA, Section 255 is remedial legislation that should be broadly construed to bring about its purpose.

Exempting information services from Section 255 would severely limit access by customers with disabilities to a narrow set of increasingly outdated telecommunications services. In short, it would isolate and discriminate against individuals with disabilities, which is contrary the goal of 255. As Chairman Kennard stated:

"We cannot ignore the needs of those with disabilities. We cannot create a society that leaves out the 26 million Americans with hearing disabilities or the nine million with sight disabilities or the 2.5 million with speech disabilities.

It's just too much a part of America.

It's too important a segment of the American family.

As we look into the future, we must strive to ensure that advances in technology benefit everyone."

Enhanced services generally include more advanced telecommunications services, such as voice mail, electronic mail, interactive voice response systems (which use telephone prompts), audio-text information and gateways to online services and other advanced services. Many of these services have become commonplace; yet they remain inaccessible to people with a variety of disabilities.

For example, I experience difficulty with products that "time out" too quickly to enter the necessary response or command and many of my peers who are:

- blind can't use some telephone equipment because key information is available only on a visual display,
- deaf, can't use because crucial status or content information that is conveyed only by auditory means,
- dealing with motor or dexterity limitations can't operate equipment intricate buttons,
- and
- dealing with cognitive disabilities can't access voice menus because they go by so fast there is no time to write down or remember the options

In addition as people age into disability aspects of this lack of access will eventually effect 25 - 40% of the population.

THE COMMISSION SHOULD INTERPRET THE TERM
"TELECOMMUNICATIONS SERVICES" BROADLY TO INCLUDE
ADVANCED SERVICES.

4. Complaint Process

There should be no filing fees for informal or formal complaints with the FCC against either manufacturers or service providers. Waiving these fees would be in the public interest.

There should not be any time limit for filing complaints, because people never knows when they will discover that a product or service is inaccessible.

Consumers with disabilities should be able to submit complaints by any accessible means available.

Require manufacturers and providers to establish a single point of contact in their companies for accessibility matters including complaints under Section 255.

Limit manufacturers and providers to a single request for an extension of time and impose a penalty for a frivolous request for an extension;

Establish a time limit of 30 days for the fast track process which may be extended only with the consent of all parties;

Specify that all information provided to the Commission by the manufacture or provider shall be furnished at the same time to the complainant;

Require that the Commission contact the complainant to determine whether the matter had been resolved to his or her satisfaction before closing the matter.

Require that the complainant have access to all information considered by the Commission in the fast track process including any discussions with accessibility experts from industry, disability groups, or the Access Board, or prior or other pending complaints involving the respondent.

The consumer should have the right to file a formal or informal complaint. While many consumers might choose the informal procedures, the Commission should not curtail a consumer's right to the formal complaint process if that is what he or she chooses.

In addition to these brief comments I strongly support the comments from:

UNIVERSAL SERVICE ALLIANCE
NATIONAL COUNCIL ON DISABILITY
NATIONAL ASSOCIATION OF THE DEAF
SELF-HELP FOR THE HARD OF HEARING
UNIVERSAL SERVICE COALITION